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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 474/2018 & CM No. 35670/2018
UNIVERSITY OF DELHI & ORS Appellants
Through: Mr. Mohinder J.S. Rupal, Adv.

versus

ABHISHEK DEVGAN & ORS Respondents
Through: Mr. Ashish Virmani, Adv. with
Mr. Himanshu Bhupesh, Adv.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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31.08.2018

CM No. 35670/2018

1. This application has been filed by the applicant Chetna Yadav, who was respondent No.6 in the appeal, with the following prayers:-

“It is, therefore, most respectfully prayed that this Hon’ble Court may be pleased to:

(a) Direct the Respondent No.1 permit the applicant to sit for the supplementary examinations as per the directions of this Hon’ble Court dated 24.08.2018; and;

(b) Pass such other or further order(s) as this Hon’ble Court; may deem fit and proper in the facts and circumstances of the case.”

2. Suffice to state, the appeal was disposed of in terms of our order dated August 24, 2018. It is the submission of Mr. Ashish Virmani that despite order of this Court dated August 24, 2018 wherein, based on an undertaking

given by the University, this Court has directed as under, the respondents are not allowing the applicants to sit in the supplementary exams.

“3 (2) Such of the petitioners who have passed in the said examination would be permitted to prosecute their studies further in accordance with the Rules and such of them who fail in the examination would be given one more opportunity to appear in the forthcoming supplementary examination and thereafter their results would be declared and they would be permitted to prosecute their studies in accordance with the Rules.”

3. Mr. Mohinder J.S. Rupal, learned counsel appearing for the appellant-University would submit that the applicant is not eligible to sit in the supplementary examination in view of the stipulation in the Rules inasmuch it is only a candidate who has completed six terms, is eligible. He further states that the applicant, who had shortage of attendance and wrote the main examination on the strength of the interim order granted by the learned Single Judge, cannot be better placed than those students who had normal / proper attendance and had appeared in the main examination. Even in those cases, where a student fails in some papers / do not write paper (s) is not permitted to write supplementary exam.

5. Having heard the learned counsel for the parties, we may state at the

outset that the Court while passing the order on August 24, 2018 intended that it is only those respondents in the appeals who had failed in papers would be given one more opportunity to appear in the forthcoming supplementary examination as per Rules. If the Rules do not cover the eventuality in which the applicant is in, no directions in violation of a Rules can be given. We clarify one more opportunity to appear in the forthcoming supplementary examination, shall be given in accordance with Rules. We also agree with the submission made by Mr. Rupal that the applicant cannot be better placed than a candidate, who having normal / proper attendance and had appeared in the main examination but had not cleared paper (s) / not appeared, shall also not be permitted to write the supplementary exam.

6. We do not see any merit in the application. The same is dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

AUGUST 31, 2018/ak